

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

PENNYMAC LOAN SERVICES, LLC

PLAINTIFF

VS

CIVIL ACTION NO.: 2:19-CV-00193-TBM-MTP

**SITCOMM ARBITRATION ASSOCIATION,
MARK MOFFETT, SANDRA GOULETTE,
RONNIE KAHAPPA, MARK JOHNSON,
KIRK GIBBS, and ALARIC SCOTT**

DEFENDANTS

**AFFIDAVIT OF HARRIS F. POWERS III IN SUPPORT OF MOTION TO COMPEL
DEPOSITION AND MOTION TO COMPEL DISCLOSURES AND DISCOVERY
RESPONSES FROM DEFENDANT SANDRA GOULETTE (D.E. 147, 128)**

I, Harris F. Powers III, do hereby declare and attest as follows, under penalty of perjury:

1. I am an attorney licensed to practice before all state and federal courts in the State of Mississippi, all state courts in the State of Tennessee, and the United States Court of Appeals for the Fifth Federal Circuit. I have been a member in good standing of the state bar associations for the States of Mississippi and Tennessee since 2001. I am an attorney employed by the law firm of Upshaw, Williams, Biggers & Beckham, LLP, and have been since 2003. I am local counsel for the Plaintiff PennyMac Loan Services, LLC ("PennyMac") in the above-captioned action. I am competent to testify in this Affidavit, and I do so based upon my personal knowledge.

2. This Affidavit is submitted in support of the Motion to Compel Deposition of Defendant Sandra Goulette, and in support of the Motion to Compel Disclosures and Discovery Responses from Defendant Sandra Goulette. See D.E 147, 128. I attest that the description of the proceedings in those Motions to Compel and Memoranda in Support (D.E. 128-129, 147-148) is accurate, and I incorporate same by reference in this Affidavit.

3. My hourly rate in this case is \$225.00 per hour, billed in increments of one tenth of

an hour (.10). This is a reasonable hourly rate for a 20-year attorney in the State of Mississippi. Federal Courts in this state have found such an hourly rate to be reasonable. See Hardy v. City of Tupelo, 2010 WL 730314 (N.D. Miss. 2010)(\$265.00 per hour is reasonable); Boddie v. City of Cleveland, 2005 WL 2347277 (N.D. Miss. 2005)(\$225.00 is reasonable). This case involves nuanced questions involving the application of the Federal Arbitration Act in a fraudulent manner, as this Court has heretofore recognized; concurrent civil contract and conspiracy claims; and claims for civil violations of the Federal RICO Statute, 18 U.S.C. §1962.

4. On December 8, 2020 my client, PennyMac, incurred \$1,125.00 in attorney's fees as a result of Defendant Sandra Goulette's obstructive and disruptive conduct at her deposition. This represents 5.0 hours of work billed at my hourly rate of \$225.00, resulting in my client incurring \$1,125.00 in attorney's fees on that date as a result of Sandra Goulette's obstructive and disruptive conduct at her deposition.

Between December 23, 2020 and December 28, 2020, my client incurred \$787.50 in attorney's fees as a result of work performed by the undersigned in connection with Motions to Compel written discovery filed against Defendants Mark Moffett, Sandra Goulette, Ronnie Kahapea, Mark Johnson, Kirk Gibbs. This represents 3.5 total hours of work at the hourly rate of \$225.00. As this work was generally applicable to motion work related to all five (5) defendants, the undersigned suggests that this Court should divide the total amount of \$787.50 by 5, and assess an attorney's fee award of \$157.50 against each defendant. Defendant submits that this is a fair and reasonable resolution, as Rule 37 mandates that the reasonable expenses, including attorney's fees, that a Movant incurs in bringing a Motion to Compel be paid if the Motion is granted. Hillcrest Estates, LLC v. Nationwide Mut. Ins. Co., Civil Action No. 3:08-CV-107, 2009 WL 605074(N.D. Miss. 2009), at *3; Welch v. All American Check Cashing, Inc., Civil Action No. 3:14MC18, 2015

WL 1279827 (N.D. Miss. 2015), at *3.

5. The undersigned further submits that the fees above are reasonable, in light of the fact that the undersigned is the resident attorney for counsel admitted pro hac vice; accordingly, the requirements imposed by L.U. Civ. R. 81(d)(3) require a resident attorney, such as the undersigned, to validate every submission filed with this Court, and to appear and participate in all depositions taken in this case.

Further Affiant saith naught.

UPSHAW, WILLIAMS, BIGGERS,
& BECKHAM, LLP

By: /s/ Harris F. Powers III
HARRIS F. POWERS III, MBN: 100331

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CERTIFICATE OF SERVICE

I certify the foregoing pleading was sent to the following recipients by U.S. mail, return receipt requested:

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This the 30th day of December, 2020.

/s/ Harris F. Powers III
HARRIS F. POWERS III